

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHNNY EAGLE,

Plaintiff,

v.

GILBERT, RYAN, LAMB, and
JOHN DOE,

Defendants.

Case No. 08-11035

Honorable David M. Lawson

Magistrate Judge Virginia M. Morgan

**ORDER ADOPTING REPORT AND RECOMMENDATION,
GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT,
AND DISMISSING COMPLAINT**

Presently before the Court is the report issued on October 20, 2008, by Magistrate Judge Virginia Morgan pursuant to 28 U.S.C. § 636(b) recommending that this Court grant the defendant's motion for summary judgment and dismiss the *pro se* plaintiff's complaint. The magistrate judge concluded that the plaintiff's motion should be dismissed without prejudice because the plaintiff failed to exhaust his administrative remedies. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 23] is **ADOPTED**.

It is further **ORDERED** that the defendants' motion for summary judgment [dkt. #14] is **GRANTED**. The complaint is **DISMISSED WITHOUT PREJUDICE**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: November 7, 2008

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on November 7, 2008.

s/Susan K. Pinkowski
SUSAN K. PINKOWSKI